

Exhibit 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

KEITH TURNER,

Plaintiff,

-against-

Index No.
06 CV 1910

NYU HOSPITALS CENTER, NYU MEDICAL CENTER,
NYU SCHOOL OF MEDICINE, AND NYU HEALTH
SYSTEM,

Defendants.

- - - - - x

One Battery Park Plaza
New York, New York

November 29, 2006
10:00 a.m.

DEPOSITION OF UDEL DeGAZON, a witness produced on
behalf of the Defendants herein, taken by the
attorney for the Plaintiff pursuant to Subpoena
at the above-stated time, place and date before
Debra Bonavisa, a Notary Public of the State of
New York.

* * *

Page 6

1 Udel DeGazon 6
 2 so and I will rephrase it. We will probably be here
 3 most of the day. If you need a break, say so. We
 4 will probably take a lunch break. Let me know when
 5 you feel you need to eat lunch.
 6 Let's move on. Your name is Udel
 7 DeGazon, correct?
 8 A Yes, sir.
 9 Q You are a former employee of NYU,
 10 correct?
 11 A Yes, sir.
 12 Q You worked for NYU for many years?
 13 A Yes, sir.
 14 Q You were hired in August 1966, is that
 15 right?
 16 A That's correct.
 17 Q Okay.
 18 MR. GOLDBERG: We will mark as
 19 Exhibit number 86, Bates N0539.
 20 (At this time the above referred to
 21 document was marked as Plaintiff's Exhibit
 22 86 for identification, as of this date.)
 23 Q NYU produced many documents and some
 24 of them I will show you today. I've already marked
 25 eighty-five exhibits before I took your deposition

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1 Udel DeGazon 7
 2 so when I show you Exhibits 1 to 85, they were
 3 already marked at other depositions and I will just
 4 reuse them. Exhibit 86 onwards are documents that
 5 I'm marking today, documents from your personnel file
 6 that were of interest to me. One of those is
 7 Exhibit 86 which says you were hired in August of
 8 '66 as a training manager, is that accurate?
 9 A No, sir.
 10 Q Okay. What was your position when you
 11 were hired by NYU?
 12 A Supervisor.
 13 Q So you were not hired as a training
 14 manager in August of '66, is that right?
 15 A Yes, sir, that's correct.
 16 Q Did you ever meet someone named Judith
 17 B. Goodman at NYU?
 18 A I don't recall that name, sir.
 19 Q So you were hired as a supervisor in
 20 1966 and was it for the Department of Building
 21 Services?
 22 A Yes, sir.
 23 Q And you spent your entire career at
 24 NYU in the Department of Building Services?
 25 A Yes.

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1 Udel DeGazon 8
 2 Q And you separated from NYU in 2005?
 3 A Yes, sir.
 4 MR. GOLDBERG: We will mark as
 5 Exhibit number 87 Bates number N0336.
 6 (At this time the above referred to
 7 document was marked as Plaintiff's Exhibit
 8 87 for identification, as of this date.)
 9 Q I show you Exhibit number 87. Is that
 10 a memo that you submitted to NYU regarding your
 11 separation from NYU?
 12 A That is correct.
 13 Q Is that your signature on the memo?
 14 A Yes, sir.
 15 Q So you gave NYU notice in April of '05
 16 of your intention to retire in May of '05, correct?
 17 A Yes, sir.
 18 Q And your letter was fairly precise in
 19 terms of stating that you had worked at NYU for
 20 thirty-eight years and eight months, correct?
 21 A Yes, sir.
 22 Q Over your thirty-eight year career at
 23 NYU, did you feel it was important to be precise in
 24 your communications?
 25 MR. SHAPIRO: Objection to form.

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1 Udel DeGazon 9
 2 Q You can answer questions that have
 3 those types of objections.
 4 MR. SHAPIRO: I said objection to
 5 form. Every now and then I will make an
 6 objection to form. Unless I tell you don't
 7 answer, you can go ahead and answer.
 8 Q Was it important to you at NYU to be
 9 precise in your communications?
 10 A Yes.
 11 Q Whether those communications were
 12 written or verbal, it was important to you to be
 13 precise when you communicated?
 14 A Yes.
 15 Q Was it also important to you to have
 16 your subordinates be precise when they communicated
 17 in written or verbal form?
 18 A Yes, sir.
 19 Q Would that include correct spelling
 20 and grammar in memos and correspondence?
 21 A Yes, sir.
 22 Q Now while you were at NYU did you
 23 obtain a college degree?
 24 A Yes, sir.
 25 Q Was that in 1986?

3 (Pages 6 to 9)

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1 Udel DeGazon 10
 2 A Yes, sir.
 3 MR. GOLDBERG: We will mark as
 4 Exhibit number 88, Bates number N0557.
 5 (At this time the above referred to
 6 document was marked as Plaintiff's Exhibit
 7 88 for identification, as of this date.)
 8 Q Can you identify 88 as a copy of the
 9 diploma you received from NYU in 1986?
 10 A That's correct, sir.
 11 Q As a result of being an employee of
 12 NYU, did that either eliminate or lessen the tuition
 13 you had to pay to get your degree?
 14 A Tuition remission at that time.
 15 Q So you ended up not having to pay
 16 anything for the degree?
 17 A We paid just a registration fee.
 18 Q And that was a benefit of being an NYU
 19 employee?
 20 A Yes, sir.
 21 Q Did NYU also have a policy under which
 22 the children of employees could attend NYU at either
 23 a reduced or zero tuition?
 24 A Yes, sir.
 25 Q As of 2004 when Mr. Turner's employment

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1 Udel DeGazon 11
 2 at NYU ended, do you know what the policy was in
 3 terms of children going to NYU?
 4 A I don't know, sir.
 5 Q There was a policy where it was either
 6 zero or reduced tuition?
 7 A I don't know, sir.
 8 Q I thought you said there was some
 9 policy in place?
 10 A There was, I was in graduate school at
 11 NYU when it was still a hundred percent tuition
 12 remission and then it became a benefit and of course
 13 I couldn't afford it, so the policy had changed as
 14 far as it referred to me.
 15 Q Okay. As of April of '05 when you
 16 separated from NYU, was your position Director of
 17 Building Services?
 18 A Yes, sir.
 19 Q Prior to being Director of Building
 20 Services for a period of time you were Associate
 21 Director of Building Services?
 22 A Yes, sir.
 23 Q Can you tell me when you first held
 24 the position of Associate Director of Building
 25 Services?

Page 12

1 Udel DeGazon 12
 2 A I don't remember the date and the
 3 year.
 4 Q Would it be fair to say that you held
 5 that position in the 1990's?
 6 A Yes, sir.
 7 Q Did you have it in the 1980's?
 8 A I don't remember.
 9 Q So it's fair to say that in the 1990's
 10 you were Associate Director of Building Services and
 11 then you were later promoted to Director of Building
 12 Services, correct?
 13 A Correct, sir.
 14 Q Am I correct that on April 30th of
 15 2004 you were made Interim Director the day that
 16 Mr. Joey Morelos was let go from NYU?
 17 MR. SHAPIRO: Objection to form.
 18 A Well, I don't know. I don't think I was
 19 made an Interim Director. We didn't have a director
 20 then, and I don't know what you mean an Interim
 21 Director. A director hadn't been chosen on that date
 22 when Mr. Morelos separated.
 23 Q If NYU has produced documents that
 24 refer to you as Interim Director, would you doubt
 25 NYU's records changing your title from Associate

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1 Udel DeGazon 13
 2 Director to Interim Director to Director?
 3 A I wouldn't doubt it, sir.
 4 MR. GOLDBERG: We will mark as
 5 Exhibit number 89 Bates numbers N0373
 6 through N0374.
 7 (At this time the above referred to
 8 document was marked Plaintiff's Exhibit 89
 9 for identification, as of this date.)
 10 Q Mr. DeGazon, NYU produced a lot of
 11 documents in this case, one of them is called
 12 Confidential Personnel Profile. It's a form and
 13 I have forms for you and I have forms for other
 14 employees. I'm showing you Exhibit 89 which is one
 15 form that pertains to you, according to the document,
 16 and it says Interim Acting Director, May 3rd, '04.
 17 Does that ring a bell, after Mr. Morelos was laid off
 18 or let go by NYU, that NYU placed you in the Interim
 19 Director position prior to making you the Permanent
 20 Director of Building Services?
 21 A That's correct, sir.
 22 Q And, in fact, according to Exhibit 89,
 23 when that occurred NYU raised your salary from
 24 \$94,917.94 to what appears to me to be \$104,409.76;
 25 does that sound accurate to you?

4 (Pages 10 to 13)

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1 Udel DeGazon 26
 2 A Yes, sir.
 3 Q You know he's Philippino?
 4 A Yes, sir.
 5 Q You know he's a former employee of
 6 NYU?
 7 A Yes, sir.
 8 Q You recall that he joined NYU in or
 9 about 2001?
 10 A I don't know exactly when he joined.
 11 Q Would it be fair to say he joined NYU
 12 many years after you did?
 13 A That's fair to say, sir.
 14 Q He had been the Director of Building
 15 Services during his employment at NYU, correct?
 16 A That's correct, sir.
 17 Q As such he had authority to hire and
 18 fire?
 19 A Correct, sir.
 20 Q When Mr. Morelos joined NYU, you were
 21 already at NYU for many years as was Miss Pineda,
 22 correct?
 23 A Correct, sir.
 24 Q As was a gentleman named Robert
 25 Stephen, correct?

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1 Udel DeGazon 27
 2 A Correct, sir.
 3 Q When Mr. Morelos was at NYU and he was
 4 Director of Building Services, when he was hired you
 5 were Associate Director of Building Services and
 6 Miss Pineda was the Operations Manager at the time,
 7 correct?
 8 A Correct, sir.
 9 Q Mr. Morelos was your boss and
 10 therefore Miss Pineda's boss as well, correct?
 11 A Correct, sir.
 12 Q Before Mr. Morelos was hired as
 13 Director of Building Services, did you seek that
 14 position?
 15 A Yes, sir.
 16 Q Did you apply for that position
 17 internally at NYU?
 18 A Yes, sir.
 19 Q And you were denied the position,
 20 correct?
 21 A Correct, sir.
 22 Q Who denied you the position, was it
 23 Mr. Harney or someone else?
 24 A I don't know, sir.
 25 Q Were there multiple occasions when you

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1 Udel DeGazon 28
 2 sought that position of Director of Building
 3 Services?
 4 A Twice.
 5 Q So you sought it once when Mr. Morelos
 6 was hired prior to him being hired, correct?
 7 A Correct, sir.
 8 Q Was there an occasion prior to that
 9 when you sought it as well?
 10 A Twice.
 11 Q What was the second occasion?
 12 A The second one was Mr. Morelos, before
 13 he came, and the first one was before Mr. Chodrow
 14 came.
 15 Q There were two occasions that you
 16 sought the position and didn't get it?
 17 A That's correct, sir.
 18 Q Do you recall that Mr. Morelos hired
 19 Bozena Sutowski?
 20 A Yes.
 21 Q Do you recall that Mr. Morelos hired
 22 Keith Turner?
 23 A Yes.
 24 Q Do you know that Mr. Morelos hired
 25 Corie Fromkin?

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1 Udel DeGazon 29
 2 A Yes, sir.
 3 Q You know all three of those individuals,
 4 correct?
 5 A Yes, sir.
 6 Q And you know Keith Turner is sitting
 7 next to me in this room, right?
 8 A Right, sir.
 9 Q Do you recall that on April 30th, 2004
 10 NYU terminated the employment of Mr. Morelos?
 11 A I don't know what date it was.
 12 Q Do you recall that there was a date in
 13 2004 when you found out that NYU had terminated the
 14 employment of Mr. Morelos?
 15 A Yes, sir.
 16 Q And I have shown you documents
 17 indicating that you then became the Interim Director
 18 of Building Services?
 19 A Yes, sir.
 20 Q You got that position once Mr. Morelos
 21 was let go by NYU, correct?
 22 A Correct sir.
 23 Q In June of '04 you were made the
 24 Director of Building Services?
 25 A Correct, sir.

8 (Pages 26 to 29)

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1 Udel DeGazon 30
2 Q You promoted Miss Pineda to Associate
3 Director once you became the Director, correct?
4 A Correct, sir.
5 Q You promoted Robert Stephen from
6 Supervisor of Building Services to Manager of
7 Building Services, correct?
8 A Correct, sir.
9 Q Miss Pineda testified yesterday that
10 she made a complaint to John Harney about Mr. Morelos.
11 Did you also make a complaint to Mr.
12 Harney about Mr. Morelos?
13 MR. SHAPIRO: Objection to form.
14 A Yes, sir.
15 Q Did you make that complaint before or
16 after Miss Pineda made her complaint?
17 A I don't know.
18 Q Did you make that complaint in 2004?
19 A Yes, sir.
20 Q What did you tell Mr. Harney?
21 A I don't remember my exact words.
22 Q What was the gist of your complaint?
23 A That there was tremendous turmoil in
24 our department.
25 Q You blamed Mr. Morelos for that?

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1 Udel DeGazon 31
2 A Yes, sir.
3 MR. SHAPIRO: Objection to form.
4 Q Anything else you recall conveying to
5 Mr. Harney?
6 A No, sir.
7 Q Did you suggest to Mr. Harney that
8 Mr. Morelos should be let go from NYU?
9 A No, sir.
10 Q Did you have a proposed solution for
11 the turmoil that you were telling Mr. Harney about?
12 A No, sir.
13 Q You wanted to let Mr. Harney know
14 there was turmoil in the department and you blamed
15 Mr. Morelos for that?
16 A Yes, sir.
17 Q How many years has Mr. Harney been at
18 NYU?
19 A I don't know.
20 Q Was he a long time employee like
21 yourself?
22 A Yes, sir.
23 Q What is his race?
24 A Caucasian.
25 Q What was the race of Mr. Chodrow?

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1 Udel DeGazon 32
2 A Caucasian.
3 Q Do you know if Mr. Chodrow was American
4 born in this country?
5 A Yes.
6 Q Did you ever complain about him?
7 A No, sir.
8 Q Would it be fair to say you were not
9 happy when you were denied the position of Director of
10 Building Services on two occasions?
11 A That's fair to say.
12 Q Were you happy when you got the
13 position?
14 A Yes, sir.
15 Q When you were rejected and Mr. Chodrow
16 was hired, you were happy with that?
17 A That's fine, sir, I was.
18 Q When you were rejected and Mr. Morelos
19 was hired, you were happy with that as well?
20 A Yes, sir.
21 Q Did you ever complain to Human
22 Resources about Mr. Morelos?
23 A No, sir, not that I recall.
24 Q Why did you pick Mr. Harney to make
25 your complaint to?

Page 33

1 Udel DeGazon 33
2 A He was the Director of Building
3 Services, he was administration or in charge.
4 Q He was a higher level position than
5 Director of Building Services?
6 A Yes, sir.
7 Q Was he Mr. Morelos' boss?
8 A Overall, yes.
9 Q Was there someone directly above Mr.
10 Morelos?
11 A John Schlingheyde.
12 Q Was there someone above Mr.
13 Schlingheyde?
14 A John Harney.
15 Q Was there someone above John Harney?
16 A The CEO of the medical center was.
17 Q At the time that you stopped working
18 at NYU, do you have a sense as to what the annual
19 revenues were? Were they in the millions, billions?
20 A I have no idea.
21 Q There were thousands of employees at
22 NYU?
23 A Yes, sir.
24 Q Did you document your complaint to
25 Mr. Harney?

9 (Pages 30 to 33)

Page 42

1 Udel DeGazon 42
 2 Turner from NYU?
 3 A I did, sir.
 4 Q Was anyone else involved in that
 5 decision?
 6 A No, sir.
 7 Q So the decision to hire Mr. Turner was
 8 made by Mr. Morelos and the decision to let Mr.
 9 Turner go from NYU was made by you, correct?
 10 A Yes, sir.
 11 Q When did you make that decision to
 12 separate Mr. Turner from NYU?
 13 A I was asked to cut the budget. I don't
 14 remember the date, I was asked to cut the budget
 15 and I had to eliminate, reduce staff, and at that
 16 point a decision was made. I don't know the dates,
 17 I don't recall the dates.
 18 Q Let me ask you some questions about
 19 Bozena Sutowski, but before I do, I want to make sure
 20 I show you a lot of documents today. I hope I don't
 21 leave any out. Let me show you Exhibit 4. Do you see
 22 that that's a performance evaluation for Mr. Turner
 23 from 2003?
 24 (Document handed.)
 25 A Yes, sir.

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1 Udel DeGazon 43
 2 Q Mr. Turner reported to Miss Pineda as
 3 of 2003 and she reported to you and both of you
 4 signed the evaluation?
 5 A That's correct.
 6 MR. SHAPIRO: Objection to form.
 7 Q Am I correct that you read the
 8 evaluation before signing it?
 9 A Yes, sir.
 10 Q So you knew Mr. Turner had received a
 11 "meets requirements" rating from Miss Pineda in
 12 September of '03?
 13 A Correct, sir.
 14 Q Exhibit number 5, can you identify that
 15 as a memo that you sent out in March of '03?
 16 A Yes, sir.
 17 Q Exhibit number 6, can you identify that
 18 as a NYU staff handbook that you had when you worked
 19 at NYU?
 20 MR. SHAPIRO: Objection to form.
 21 Q Did you have that document when you
 22 worked at NYU?
 23 A Yes, sir.
 24 Q Were you familiar with the policies in
 25 there?

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1 Udel DeGazon 44
 2 A As much as possible.
 3 Q Did you comply with the policies in
 4 that document?
 5 A Yes, sir.
 6 Q Let me show you what was later marked
 7 as Exhibit 32, which actually was -- I'm splitting it
 8 into two separate documents as per Mr. Shapiro's
 9 comments this morning. The first part I'm putting in
 10 front of you which is Bates numbers N0563 through
 11 N0578. Can you tell me if you are familiar with that
 12 material?
 13 (Document handed.)
 14 A I don't recall seeing this document.
 15 Q Okay. How about the second part of
 16 Exhibit 32 which contains various Human Resources
 17 policies and procedures from November of '03. Do you
 18 recall this material when you were at NYU?
 19 Let me back up a step, let me ask you
 20 another question. When you were at NYU were you
 21 generally familiar with the written policies that
 22 covered you and your department?
 23 A Yes, sir.
 24 Q Even if I show you documents today,
 25 two years later that you don't recall, when you were

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1 Udel DeGazon 45
 2 at NYU you were generally familiar with the policies
 3 that applied to your area, correct?
 4 MR. SHAPIRO: Objection.
 5 A I would agree with that.
 6 Q In thirty-eight years of experience
 7 you probably knew a lot about the policies of NYU
 8 because you were there for so many years?
 9 MR. SHAPIRO: Objection to form.
 10 A I would think so.
 11 Q You knew your way around the facility,
 12 you were an expert, right?
 13 MR. SHAPIRO: Objection to form.
 14 A If you say so, sir.
 15 Q You didn't get lost at NYU?
 16 A No, sir.
 17 Q So Exhibit 32, do you recall these
 18 Human Resource materials?
 19 A I have seen them.
 20 Q You see it's from November of 2003?
 21 A Yes.
 22 Q So you had these materials available
 23 to you, right?
 24 A Yes, sir.
 25 Q Did you always comply with the written

12 (Pages 42 to 45)

Page 50

1 Udel DeGazon 50
 2 spelling from time to time?
 3 A Yes, sir.
 4 Q In your opinion did those problems
 5 render her unqualified to be at NYU?
 6 A No, sir.
 7 Q Did it render her unqualified for any
 8 of her positions?
 9 A No, sir.
 10 Q Did you ever give her a warning for
 11 her problem with her spelling?
 12 A No, sir.
 13 Q Let me show you what was marked as
 14 Exhibit number 9, the Confidential Personnel Profile
 15 for Keith Turner.
 16 (Document handed.)
 17 Q You signed off on this document on the
 18 bottom left-hand corner?
 19 A Yes, sir.
 20 Q And the date that you signed this
 21 document, was it July 23rd of '04?
 22 A I don't know, sir.
 23 Q Okay.
 24 A It was typed.
 25 Q The date is typed in, so you don't know

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1 Udel DeGazon 51
 2 when you signed it?
 3 A Yes.
 4 Q You may have signed it after the fact?
 5 A I may have signed it after the fact.
 6 Q Miss Pineda said she filled out the
 7 information on this form on the right-hand side, the
 8 termination. Did you sign this document after reading
 9 Miss Pineda's assessment in that document?
 10 A Yes, sir.
 11 Q That was the procedure at NYU, right?
 12 A Yes, sir.
 13 Q So if Miss Pineda did her work on
 14 August 3rd of '04, is it likely you signed the
 15 document after she did her work on the document?
 16 A That's correct, sir.
 17 Q So the July 23rd, '04 date may very
 18 well be wrong?
 19 A Yes, sir.
 20 Q When you signed off on this document,
 21 did you approve of the information that Miss Pineda
 22 put on the form?
 23 A Yes, sir.
 24 Q So you knew that Miss Pineda had given
 25 Mr. Turner a score of fair for quality, poor for

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1 Udel DeGazon 52
 2 quantity, good for attendance and fair for
 3 cooperation?
 4 A As indicated.
 5 Q And you knew that Miss Pineda had
 6 written on this document, unacceptable level of
 7 performance?
 8 A As indicated.
 9 Q And you knew that Miss Pineda had
 10 checked the boxes for "no" to prevent NYU from hiring
 11 Mr. Turner?
 12 A As indicated.
 13 Q And you approved all of that, correct,
 14 sir?
 15 A Yes, sir.
 16 Q So the only handwriting on this
 17 document that belongs to you is your signature, Udel
 18 DeGazon, correct?
 19 A Yes, sir.
 20 Q And you knew that this document would
 21 become part of Mr. Turner's personnel file, right?
 22 MR. SHAPIRO: Objection to form.
 23 Q That's where it goes?
 24 MR. SHAPIRO: Objection to form.
 25 A Yes, sir.

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1 Udel DeGazon 53
 2 Q So, Mr. DeGazon, once you signed off
 3 on this document, which I gather occurred in August
 4 after Miss Pineda filled it out, you knew this
 5 document would prevent NYU from ever rehiring Mr.
 6 Turner, right?
 7 MR. SHAPIRO: Objection to form.
 8 A Yes, sir.
 9 Q You did not allow NYU to rehire Mr.
 10 Turner, correct?
 11 MR. SHAPIRO: Objection to form.
 12 A Correct, sir.
 13 Q You felt that way the day Mr. Turner
 14 was let go?
 15 A As indicated on the form, sir.
 16 Q You felt that way in August of 2004
 17 for sure. Did you feel that way on June 14th of
 18 2004 when you advised Mr. Turner that his job was
 19 over?
 20 A Yes, sir.
 21 Q Did you feel that way about Mr. Turner
 22 even before June 14, '04? At some point did you
 23 come to the conclusion that you wanted Mr. Turner --
 24 it was time for him to leave NYU and you didn't want
 25 to see him back?

14 (Pages 50 to 53)

Page 74

1 Udel DeGazon 74
 2 A I don't know, sir.
 3 Q Did you ever make a comment to her,
 4 either in jest or seriously, about whether she
 5 believed in Christ?
 6 A No, sir.
 7 Q What is your religion?
 8 A Catholic.
 9 Q That's the same religion as Miss Pineda,
 10 correct?
 11 A I don't know, sir.
 12 Q Was it Mr. Harney who advised you that
 13 Mr. Morelos had been let go by NYU?
 14 A Yes, sir.
 15 Q He was the one who let you know that
 16 you were now Interim Director?
 17 A Yes, sir.
 18 Q Let's talk a little bit more about
 19 Corie Fromkin. I have a Confidential Personnel
 20 Profile form for her that is not signed, but let me
 21 show it to you just to see if it's something you may
 22 have seen even though it doesn't appear to have your
 23 signature on it. Is that something that you've seen
 24 before?
 25 A No, sir.

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1 Udel DeGazon 75
 2 Q Do you know whose handwriting is at
 3 the top of the document?
 4 A Yes, sir.
 5 Q Whose handwriting is that?
 6 A Jackie Richards.
 7 Q Jacqueline Richards put together the
 8 confidential profile form regarding Miss Fromkin's
 9 separation from NYU?
 10 MR. SHAPIRO: Objection to form.
 11 A I don't know, sir.
 12 Q She certainly wrote on this document?
 13 A Yes, sir.
 14 Q So as far as you understood NYU says
 15 it discharged Miss Fromkin for cause, is that right,
 16 as far as you understood?
 17 A As far as I understood, sir.
 18 Q Her position was not eliminated, she
 19 was simply fired for cause and she was replaced by
 20 Jacqueline Richards, right?
 21 A That is correct, sir.
 22 Q Likewise, NYU fired Miss Sutowski for
 23 cause; that's your position, right?
 24 A That's correct, sir.
 25 Q And her position was not eliminated

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1 Udel DeGazon 76
 2 either, correct?
 3 A Correct, sir.
 4 Q Let me ask you some questions about
 5 Robert Stephen. His application for employment is
 6 marked as Exhibit 33 and he wrote on it, social
 7 contact, U. DeGazon. As you testified you referred
 8 him to NYU to seek employment, right?
 9 MR. SHAPIRO: Objection to form.
 10 A Correct, sir.
 11 Q Did you look at his application for
 12 employment when he applied for a job in '97? Were
 13 you involved in that process with him?
 14 MR. SHAPIRO: Objection to form.
 15 A Yes, sir.
 16 Q Did you recommend him for employment
 17 to NYU?
 18 A Yes, sir.
 19 Q He said that he knew you from, I think
 20 he used the phrase, a cultural club or a culture club.
 21 Can you tell me how you knew Mr. Stephen prior to
 22 him joining NYU?
 23 A A club made up of St. Lucians.
 24 Q What was the name of the club?
 25 A Iyalona.

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1 Udel DeGazon 77
 2 Q Can you spell that?
 3 A I-y-a-l-o-n-a.
 4 Q Does that word have any meaning?
 5 A Yes.
 6 Q What does it mean?
 7 A It's Carib for St. Lucia, we are part
 8 Carib descendents.
 9 Q So if Mr. Stephen applied to NYU in
 10 '97, when do you think you first met him prior to '97;
 11 would it have been '96, '95?
 12 A I don't remember.
 13 Q So you knew him socially through this
 14 club?
 15 A Yes, sir.
 16 Q The club was made up of St. Lucians?
 17 A Yes, sir.
 18 Q It was people who were from St. Lucia?
 19 A Yes, sir.
 20 Q When he applied for a job you also saw
 21 -- I gather you saw his resume, Exhibit 34?
 22 MR. SHAPIRO: Objection to form.
 23 Q Did you see his resume as well when he
 24 applied for a job?
 25 A Probably did, sir.

20 (Pages 74 to 77)

<p style="text-align: right;">Page 110</p> <p>1 Udel DeGazon 110</p> <p>2 A I don't remember that, sir.</p> <p>3 Q You let Mr. Turner go on June 14th of</p> <p>4 '04 allegedly to eliminate his position and save NYU</p> <p>5 money less than one month after this memo?</p> <p>6 MR. SHAPIRO: Objection to form.</p> <p>7 A That's correct.</p> <p>8 Q You have a memo in May seeking to</p> <p>9 raise people's salaries and simultaneously you were</p> <p>10 being asked to cut and save money, is that fair to</p> <p>11 say?</p> <p>12 A Not fair to say, sir.</p> <p>13 MR. SHAPIRO: Objection to form.</p> <p>14 Q What is the date that NYU asked you to</p> <p>15 have some reduction in force in 2004?</p> <p>16 A When I became Director, I don't</p> <p>17 remember the date.</p> <p>18 Q You became Interim Director on April</p> <p>19 30th?</p> <p>20 A It was in May.</p> <p>21 Q In May you were asked to try to cut</p> <p>22 some money where possible, right?</p> <p>23 A I believe that's when it happened.</p> <p>24 Q In the same month you sent this e-mail</p> <p>25 about salaries in your department, correct?</p>	<p style="text-align: right;">Page 112</p> <p>1 Udel DeGazon 112</p> <p>2 below market data and she recommended a raise for</p> <p>3 him. Do you see that in her e-mail?</p> <p>4 A Yes, sir.</p> <p>5 Q And it also recommended an increase to</p> <p>6 the salary of Miss Pineda, correct?</p> <p>7 A If it shows that there, sir.</p> <p>8 Q And it said if you're comfortable with</p> <p>9 these recommendations put through the CPP, the</p> <p>10 Confidential Personnel Profiles, did you do so to</p> <p>11 get raises for Ms. Pineda and Mr. Trujillo? If the</p> <p>12 documents indicate that you put those forms in for</p> <p>13 raises, then you don't dispute you did it, you just</p> <p>14 don't have the documents?</p> <p>15 A Yes, sir.</p> <p>16 Q Right. Now on the very same date that</p> <p>17 you got the response from Miss Puskas, June 8th of</p> <p>18 '04, you had a supervisors' meeting, isn't that true?</p> <p>19 A I don't recall, sir.</p> <p>20 Q Let me show you Exhibit number 84. Is</p> <p>21 that a two page document that you prepared?</p> <p>22 (Document handed.)</p> <p>23 A Yes, sir.</p> <p>24 Q And Keith Turner's name is on the top</p> <p>25 of that document; do you see that?</p>
<p style="text-align: right;">Page 111</p> <p>1 Udel DeGazon 111</p> <p>2 A If the dates show that, sir.</p> <p>3 Q It does. And, in fact, on May 25th,</p> <p>4 2004 when you wrote this e-mail about management</p> <p>5 salaries, Keith Turner was a member of the management</p> <p>6 staff of the department, correct?</p> <p>7 A I assume that, sir.</p> <p>8 Q And Bozena Sutowski was a member of</p> <p>9 the management staff in the department as well,</p> <p>10 right?</p> <p>11 A I would assume that, sir.</p> <p>12 Q And obviously since you generated this</p> <p>13 e-mail to Mitzi Puskas, you obviously had access to</p> <p>14 the salary information on the people in your</p> <p>15 department, correct?</p> <p>16 MR. SHAPIRO: Objection to form.</p> <p>17 A Correct, sir.</p> <p>18 Q And in response to your e-mail from</p> <p>19 May 25th you got e-mails back and one of them came</p> <p>20 on June 8th of 2004, about a week before Mr. Turner</p> <p>21 and Miss Sutowski lost their jobs. That's the June</p> <p>22 8th, 2004 e-mail; do you see that?</p> <p>23 A Yes.</p> <p>24 Q In that e-mail Miss Puskas indicated</p> <p>25 to you that she felt Mr. Trujillo was being paid</p>	<p style="text-align: right;">Page 113</p> <p>1 Udel DeGazon 113</p> <p>2 A Yes, sir.</p> <p>3 Q You gave this document to Mr. Turner,</p> <p>4 right?</p> <p>5 A I don't know, sir.</p> <p>6 Q Well, it's your handwriting?</p> <p>7 A No, it's not, sir, this isn't.</p> <p>8 Q Well, the document other than the</p> <p>9 Keith Turner --</p> <p>10 MR. SHAPIRO: Mr. Turner.</p> <p>11 Q Do you know who wrote that?</p> <p>12 A I don't know, sir.</p> <p>13 Q Other than Mr. Turner at the top</p> <p>14 left-hand corner, the rest of the document is your</p> <p>15 handwriting?</p> <p>16 A Yes, sir.</p> <p>17 Q I will represent to you that the Bates</p> <p>18 numbers on these documents came from the document</p> <p>19 production that my firm sent to your attorneys,</p> <p>20 therefore the document was in Keith Turner's</p> <p>21 possession and we produced it in this lawsuit. It</p> <p>22 says, are you a coward?</p> <p>23 That's your handwriting?</p> <p>24 A Yes, sir.</p> <p>25 Q At the end of the document, who went</p>

29 (Pages 110 to 113)

Page 114	Page 116
<p>1 Udel DeGazon 114</p> <p>2 to the meeting on June 8th, 2004 at 9:00 o'clock</p> <p>3 a.m.?</p> <p>4 A Supervisors?</p> <p>5 Q Yes, who went to that meeting?</p> <p>6 A The supervisors.</p> <p>7 Q Did you prepare this document?</p> <p>8 A If my memory serves me right, this</p> <p>9 document was prepared for the supervisors to make</p> <p>10 them aware of how to go about supervising the 1199</p> <p>11 employees as part of it. I don't have it in front of</p> <p>12 me to read, I don't remember everything that was</p> <p>13 written there by me.</p> <p>14 Q I don't see any reference -- you can</p> <p>15 look at the document.</p> <p>16 A Uh-huh.</p> <p>17 Q Since you wrote it, I don't see any</p> <p>18 reference to 1199 in your two page document. It's</p> <p>19 entitled, it has the word Commitment on the first</p> <p>20 page.</p> <p>21 A Yes, sir.</p> <p>22 Q It ends with, are you a coward? Do you</p> <p>23 have any reason to deny that Mr. Turner was at this</p> <p>24 meeting on June 8th, 2004?</p> <p>25 A I have no proof of that, sir.</p>	<p>1 Udel DeGazon 116</p> <p>2 A No, sir.</p> <p>3 Q You don't know who wrote the word Mr.</p> <p>4 Turner on the top?</p> <p>5 A No, sir.</p> <p>6 Q Let's see if I understand your</p> <p>7 testimony. There was a meeting June 8th of 2004 but</p> <p>8 you don't have a list of who went to the meeting, is</p> <p>9 that right?</p> <p>10 A The document shows that, sir.</p> <p>11 Q Do you recall who was at the meeting?</p> <p>12 A No, sir.</p> <p>13 Q Okay. You wrote this note for that</p> <p>14 meeting?</p> <p>15 A Yes, sir.</p> <p>16 Q Mr. Turner has a copy of it but you</p> <p>17 don't have a list of who else has a copy of it, fair</p> <p>18 to say?</p> <p>19 A Fair to say, sir.</p> <p>20 Q You wrote, are you a coward?</p> <p>21 A That's written there, sir.</p> <p>22 Q Was that meant to be encouragement or</p> <p>23 a threat or something else?</p> <p>24 MR. SHAPIRO: Objection to form.</p> <p>25 A No, sir.</p>
Page 115	Page 117
<p>1 Udel DeGazon 115</p> <p>2 Q You have no reason to deny it either,</p> <p>3 correct, sir?</p> <p>4 A No reason.</p> <p>5 Q Since Mr. Turner produced this document,</p> <p>6 he obtained it from someone, correct? He got the</p> <p>7 document, right?</p> <p>8 A Right.</p> <p>9 Q And it's your handwriting?</p> <p>10 A Right.</p> <p>11 Q Okay. Did you personally distribute</p> <p>12 copies of this to the people who attended the</p> <p>13 meeting?</p> <p>14 A Maybe I did.</p> <p>15 Q You just gave it to Keith Turner? Is</p> <p>16 it possible you just gave it to him?</p> <p>17 A Only him?</p> <p>18 Q Yes, I'm asking you.</p> <p>19 A No, sir.</p> <p>20 Q So you think you gave it to everyone?</p> <p>21 A Yes, sir.</p> <p>22 Q The identical document to everyone?</p> <p>23 A Yes, sir.</p> <p>24 Q Do you have any proof that you gave</p> <p>25 this to everybody at the meeting?</p>	<p>1 Udel DeGazon 117</p> <p>2 Q That to me seems rather intimidating.</p> <p>3 What was the intent of writing, are you a coward?</p> <p>4 MR. SHAPIRO: Objection to form.</p> <p>5 A I don't remember what the words were</p> <p>6 intended to send to the staff, but if my memory</p> <p>7 serves me right we were talking here about</p> <p>8 commitment to the department and we cannot be</p> <p>9 cowards in doing our jobs because the phrase stands</p> <p>10 by itself without a sentence.</p> <p>11 Q Am I correct that prior to your</p> <p>12 becoming Interim Director and then director you</p> <p>13 never issued a document like this to the staff?</p> <p>14 MR. SHAPIRO: Objection to form.</p> <p>15 Q As an Associate Director you never</p> <p>16 gave out a document that said, are you a coward?</p> <p>17 A Fair to say.</p> <p>18 MR. SHAPIRO: Objection to form.</p> <p>19 Q The first time you gave out a document</p> <p>20 like this was on June 8th of '04?</p> <p>21 A The record shows that, sir.</p> <p>22 Q It says here, "Are you afraid to make</p> <p>23 your plans public?" Can you tell me what you meant</p> <p>24 when you wrote that?</p> <p>25 A I'm afraid I don't have the right</p>

30 (Pages 114 to 117)

<p style="text-align: right;">Page 118</p> <p>1 Udel DeGazon 118</p> <p>2 frame of mind to remember what these sentences</p> <p>3 applied towards.</p> <p>4 Q Would it surprise you if Keith Turner,</p> <p>5 when he received a copy of this document, felt that</p> <p>6 this was an intimidating document coming from you?</p> <p>7 MR. SHAPIRO: Objection to form. He</p> <p>8 can't testify about what Mr. Turner's</p> <p>9 emotions were.</p> <p>10 Q Would it be reasonable in your opinion,</p> <p>11 as a thirty-eight year employee of NYU and a manager</p> <p>12 for many years, would it be reasonable for an</p> <p>13 employee to be intimidated by receiving a document</p> <p>14 from the head of the department that closes with the</p> <p>15 phrase, are you a coward?</p> <p>16 MR. SHAPIRO: Objection to form.</p> <p>17 Q Could someone be intimidated by this?</p> <p>18 MR. SHAPIRO: Objection to form.</p> <p>19 A I have no idea, sir.</p> <p>20 Q Do you think that as Director or</p> <p>21 Interim Director it would be reasonable for an</p> <p>22 employee to be intimidated by you if you made</p> <p>23 statements that they felt were inappropriate?</p> <p>24 MR. SHAPIRO: Objection to form.</p> <p>25 A I don't know, I can't answer that,</p>	<p style="text-align: right;">Page 120</p> <p>1 Udel DeGazon 120</p> <p>2 A That we have to reduce staff and his</p> <p>3 position was being eliminated.</p> <p>4 Q Did you then refer him to Human</p> <p>5 Resources to go see Mark Paruda?</p> <p>6 A Yes, sir.</p> <p>7 Q So you understood that after he met</p> <p>8 with you, Mr. Turner went over to see Mark Paruda and</p> <p>9 got this document?</p> <p>10 MR. SHAPIRO: Objection to form.</p> <p>11 A The records show that, sir.</p> <p>12 Q Before you advised Mr. Turner his job</p> <p>13 was ending, you had previously fired Miss Sutowski</p> <p>14 that same day, correct?</p> <p>15 MR. SHAPIRO: Objection to form.</p> <p>16 A Yes, sir.</p> <p>17 Q When you met with Miss Sutowski, was</p> <p>18 Miss Pineda in the room?</p> <p>19 A Yes, sir.</p> <p>20 Q What did you tell Miss Sutowski about</p> <p>21 the end of her job?</p> <p>22 A The gist of it was, you did</p> <p>23 unacceptable performance.</p> <p>24 Q Did you also refer her to Human</p> <p>25 Resources as well?</p>
<p style="text-align: right;">Page 119</p> <p>1 Udel DeGazon 119</p> <p>2 sir.</p> <p>3 Q Now let me show you Exhibit 85 which</p> <p>4 I believe are a package of materials that Mr. Turner</p> <p>5 received on the day he was informed his job was</p> <p>6 ending. Can you tell me if you had seen any of those</p> <p>7 materials on or about June 14th of '04? Did you see</p> <p>8 those before?</p> <p>9 (Documents handed.)</p> <p>10 A No, sir.</p> <p>11 Q Did you know that Mr. Turner received</p> <p>12 the package of materials from NYU on June 14th, '04?</p> <p>13 A No, sir.</p> <p>14 Q You met with Mr. Turner on June 14th</p> <p>15 of '04, the date he was advised his job was ending,</p> <p>16 correct?</p> <p>17 A If that was the date, yes, sir.</p> <p>18 Q When you met with Mr. Turner on June</p> <p>19 14th, was anybody else in the room?</p> <p>20 A I think Ms. Pineda was there.</p> <p>21 Q What did you say to Mr. Turner about</p> <p>22 the end of his employment when you met with him at</p> <p>23 the end of June 14th, '04? Tell me the gist of what</p> <p>24 you said to Mr. Turner on the day he lost his job at</p> <p>25 NYU.</p>	<p style="text-align: right;">Page 121</p> <p>1 Udel DeGazon 121</p> <p>2 A Yes, sir.</p> <p>3 Q So you told Miss Sutowski that she was</p> <p>4 being fired for poor performance for cause, and you</p> <p>5 told Mr. Turner he was being laid off due to the</p> <p>6 elimination of his position.</p> <p>7 A Correct, sir.</p> <p>8 Q When you told that to Mr. Turner did</p> <p>9 you also mention that there were budgetary reasons?</p> <p>10 A Yes, sir.</p> <p>11 Q So Miss Sutowski's job still existed</p> <p>12 but Mr. Turner's job was eliminated; is that your</p> <p>13 testimony?</p> <p>14 A It is, sir.</p> <p>15 Q When you met with Mr. Turner, am I</p> <p>16 correct that you didn't say to Mr. Turner, we're</p> <p>17 eliminating your job but I'm placing you in</p> <p>18 Miss Sutowski's position; you didn't say that to</p> <p>19 Mr. Turner, correct?</p> <p>20 A No, sir.</p> <p>21 Q Did you say that to Mr. Turner?</p> <p>22 A No, sir.</p> <p>23 Q After you had this meeting with</p> <p>24 Mr. Turner and he left and went to HR, that's the</p> <p>25 last time that you had any communication with Mr.</p>

31 (Pages 118 to 121)

Page 122	Page 124
<p>1 Udel DeGazon 122</p> <p>2 Turner, correct?</p> <p>3 A Correct, sir.</p> <p>4 Q That's the last time you had seen</p> <p>5 Mr. Turner other than sitting in this deposition and</p> <p>6 seeing him across the table, correct?</p> <p>7 A Correct, sir.</p> <p>8 Q After you told Mr. Turner that he was</p> <p>9 being let go for financial reasons, elimination of</p> <p>10 his position, am I correct that you never contacted</p> <p>11 Mr. Turner to rehire him or recall him for</p> <p>12 reemployment at NYU, correct?</p> <p>13 A Correct, sir.</p> <p>14 Q You never had anybody at NYU do that</p> <p>15 for you?</p> <p>16 A Correct, sir.</p> <p>17 Q And to your knowledge NYU never reached</p> <p>18 out to Mr. Turner to bring him back to NYU?</p> <p>19 A I don't know, sir.</p> <p>20 Q Mr. Turner never came back to NYU to</p> <p>21 work, as far as you know, after June 14th of '04,</p> <p>22 correct?</p> <p>23 A Correct, sir.</p> <p>24 Q With respect to Miss Sutowski, after</p> <p>25 you fired Miss Sutowski you never saw her again,</p>	<p>1 Udel DeGazon 124</p> <p>2 A I didn't ask.</p> <p>3 Q Okay. Now let me show you Exhibits 38</p> <p>4 and 39. Are these two e-mails that you sent out on</p> <p>5 June 18th, 2004?</p> <p>6 (Documents handed.)</p> <p>7 A I sent this e-mail, sir.</p> <p>8 Q All right. And you sent Exhibit number</p> <p>9 39 as well?</p> <p>10 A There's something odd about this e-mail,</p> <p>11 sir.</p> <p>12 Q Miss Pineda and Mr. Stephen both</p> <p>13 received them and testified to that over the past</p> <p>14 two days. I am just asking you to verify you sent</p> <p>15 these e-mails out since two witnesses both testified</p> <p>16 they got them?</p> <p>17 MR. SHAPIRO: Don't worry about what</p> <p>18 the other witnesses said. If you can say you</p> <p>19 sent them, fine.</p> <p>20 A These are interesting e-mails. I don't</p> <p>21 even type like this, I don't even write like this.</p> <p>22 Q In this deposition your attorney can</p> <p>23 ask you questions later. My questions to you are</p> <p>24 very, very simple. I've already questioned two other</p> <p>25 witnesses that reported to you about these exact</p>
Page 123	Page 125
<p>1 Udel DeGazon 123</p> <p>2 correct?</p> <p>3 A Correct, sir.</p> <p>4 Q And you never reached out to Miss</p> <p>5 Sutowski to bring her back to NYU, either rehiring or</p> <p>6 recalling her, correct?</p> <p>7 A Correct, sir.</p> <p>8 Q Am I correct you never had anyone at</p> <p>9 NYU reach out to Miss Sutowski to bring her back to</p> <p>10 NYU?</p> <p>11 A I don't recall that, sir.</p> <p>12 Q To your knowledge that never happened?</p> <p>13 A Never happened to my knowledge.</p> <p>14 Q And if I were to show you, which I</p> <p>15 will, the organizational chart from June of '06 which</p> <p>16 postdates your retirement, you don't see Miss</p> <p>17 Sutowski and Mr. Turner in the chart, right, they are</p> <p>18 not there?</p> <p>19 MR. SHAPIRO: Give him a chance to</p> <p>20 read that.</p> <p>21 A I don't see their names there, sir.</p> <p>22 Q And, of course, Ms. Pineda and Mr.</p> <p>23 Stephen are still at NYU, they could obviously tell</p> <p>24 you if Mr. Turner and Ms. Sutowski were to return,</p> <p>25 you socialize with them, you see them?</p>	<p>1 Udel DeGazon 125</p> <p>2 documents, both said they got them. You sent these</p> <p>3 two e-mails, correct, sir? If you didn't, it's your</p> <p>4 testimony.</p> <p>5 A Maybe I sent them, sir.</p> <p>6 Q Okay. Looking at these two e-mails,</p> <p>7 the first one, which is Exhibit number 38, was from</p> <p>8 June 18th, 2004 at 5:52 a.m. You typically started</p> <p>9 your day rather early, 6:00 a.m. or 6:30 a.m.?</p> <p>10 A 6:30 a.m.</p> <p>11 Q It was typical for you to be at work</p> <p>12 early in the morning and I understand that the</p> <p>13 check-ins occurred early in the morning, is that</p> <p>14 right as well, the daily check-ins?</p> <p>15 MR. SHAPIRO: Objection to form.</p> <p>16 A What time?</p> <p>17 Q Well, you tell me.</p> <p>18 A The employees started work at 8:00</p> <p>19 o'clock so the supervisor was required to start at</p> <p>20 7:00 o'clock, start checking in the people.</p> <p>21 Q In the first e-mail, Exhibit 38, June</p> <p>22 14th of '04 at 6:52 a.m., you indicated that</p> <p>23 yesterday Mr. Harney had told you that he was now</p> <p>24 the new Director of the Building Services Department,</p> <p>25 and the word yesterday, as I understand it, would mean</p>

32 (Pages 122 to 125)

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1 Udel DeGazon 126
 2 you found out on June 17th, the day before the e-mail,
 3 right, sir?
 4 A Right, sir.
 5 Q You were acting Interim Director and
 6 now you are told now you are the Director, right?
 7 A Right, sir.
 8 Q You said in your e-mail that you were
 9 announcing the promotion of Miss Pineda to Associate
 10 Director, which you've already testified to earlier
 11 today you promoted her, right?
 12 A That's correct, sir.
 13 Q And then in the second e-mail which is
 14 Exhibit 39, which is the same day, 3:12 p.m., you then
 15 announced the promotion of Mr. Stephen to Manager of
 16 Building Services. That was the promotion you decided
 17 to make, right, sir?
 18 A That's correct, sir.
 19 Q And these e-mails went to Keith Turner
 20 and Bozena Sutowski, both of whom had been let go
 21 four days earlier? You see Mr. Turner's name is in
 22 the string and Ms. Sutowski?
 23 A I saw that, sir.
 24 Q Mr. Turner's name is in the beginning
 25 of the e-mail string, even though it's alphabetized

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1 Udel DeGazon 127
 2 as to the other employees, you see that as well?
 3 A I see his name is at the very
 4 beginning.
 5 Q When you send e-mails over the years
 6 that you've been at NYU, I don't want to say you sent
 7 e-mails for thirty-eight years, would it be fair to
 8 say you did have a block of names for the e-mail
 9 strings so you could push a button and send an
 10 e-mail to everybody in the department without typing
 11 all the names, right, sir?
 12 A Right, sir.
 13 Q And likewise, could add names to that
 14 string if you felt like it?
 15 A Yes, sir.
 16 Q Or add names or delete names from the
 17 string?
 18 A Indeed, sir.
 19 Q Would you also agree with me, Mr.
 20 DeGazon, that after an employee separates from NYU
 21 they are supposed to be taken out of the NYU e-mail
 22 system to avoid access after they are no longer with
 23 NYU?
 24 A I would think so, sir.
 25 Q Would you agree that NYU, to protect

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1 Udel DeGazon 128
 2 the integrity of its computer system, is supposed to
 3 delete people from the system regardless of why they
 4 separate from NYU, correct?
 5 A I believe that's the protocol.
 6 Q In fact, in your department you had an
 7 IT person, correct?
 8 A Yes, sir.
 9 Q And his name was?
 10 A Rodrigo Fuentes.
 11 Q He's no longer with NYU?
 12 A Yes, sir.
 13 Q He's in Florida?
 14 A Yes, sir.
 15 Q He was at NYU in June of '04, right,
 16 sir?
 17 A Yes, sir.
 18 Q And then he resigned?
 19 A Yes, sir.
 20 Q He wasn't fired for cause?
 21 A No, sir.
 22 Q And you put Keith Turner's name at the
 23 beginning of this string so he would get this e-mail,
 24 didn't you, sir?
 25 MR. SHAPIRO: Objection to form.

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1 Udel DeGazon 129
 2 A The records show that, sir.
 3 Q You also made sure Miss Sutowski got a
 4 copy of it as well?
 5 MR. SHAPIRO: Objection to form.
 6 A The records show that, sir.
 7 Q After firing Miss Sutowski for cause
 8 and letting Mr. Turner go, you notified the two of
 9 them of your promotion, Miss Pineda's promotion and
 10 Mr. Stephen's promotion; didn't you, sir?
 11 MR. SHAPIRO: Objection to form.
 12 Q That's what the record shows, sir?
 13 A This record shows that, sir.
 14 Q And you told Mr. Turner four days
 15 before this that the manager's job was eliminated and
 16 then four days later there's a brand-new manager at
 17 NYU, Mr. Stephen. Isn't that what the record shows?
 18 MR. SHAPIRO: Objection to form.
 19 A Yes, sir.
 20 Q You didn't wake up on June 18th, 2004
 21 and decide, I want Mr. Stephen for manager. That was
 22 something you wanted to do earlier and you were able
 23 to put that through on June 18th, 2004; you were
 24 allowed to do that, sir?
 25 MR. SHAPIRO: Objection to form.

33 (Pages 126 to 129)

Page 130

1 Udel DeGazon 130
2 A It's speculation.
3 Q The decision to promote Mr. Stephen was
4 one that you had to think about it, sir?
5 A That's correct.
6 Q Mr. Stephen testified you talked to him
7 about the idea of moving up the ladder?
8 MR. SHAPIRO: Objection to form.
9 A If you say so, sir.
10 Q Did he want to be promoted to manager?
11 A I would assume that.
12 Q From knowing him socially and as an
13 employee, was it your understanding that he wanted to
14 be promoted?
15 MR. SHAPIRO: Objection to form.
16 A I mean, he never expressed it to me.
17 Q Was he receptive to the promotion?
18 A Yes, sir.
19 Q And the promotion gave him a raise, I
20 believe, of \$7,000 or so, right?
21 A If the record shows that, sir.
22 Q Okay. I will show you those records.
23 Would you agree with me that Mr. Turner and Miss
24 Sutowski were not happy to lose their jobs at NYU,
25 neither one celebrated when you told them that their

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1 Udel DeGazon 131
2 jobs were ending?
3 A That's right, sir.
4 Q They didn't give you a high five, that
5 they were happy?
6 MR. SHAPIRO: Objection to form.
7 A No, sir.
8 Q Now, if I show you the Confidential
9 Personnel Profile for Mr. Stephen, Exhibits 40 and 41,
10 Mr. Stephen's promotion is reflected in Exhibit 40
11 showing him going from supervisor to manager and
12 getting a \$7,000 raise to 47,600. Can you look at
13 Exhibit 40 and see if that information is reflected
14 on there?
15 (Documents handed.)
16 A It does, sir.
17 Q Did you sign off on that document?
18 A Yes, sir.
19 Q So you let go Mr. Turner, who was
20 making \$60,000, right, according to his file?
21 A Yes, sir.
22 Q And promoted Mr. Stephen and now he's
23 making 47,600 in the manager's slot, right, sir?
24 A Right, sir.
25 Q There's a \$13,000 difference between

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2 the two salaries?
3 A Right, sir.
4 Q At an entity with thousands of
5 employees?
6 A Yes, sir.
7 MR. SHAPIRO: Objection to form.
8 Q At a time when you've already had
9 memos going with the compensation analyst resulting
10 in raises for Miss Pineda and Mr. Trujillo, correct?
11 MR. SHAPIRO: Objection to form.
12 A The record shows that, sir.
13 Q Basically what I'm saying to you, sir,
14 you've got memos in which people are getting raises,
15 Pineda and Trujillo, with thousands of dollars going
16 up and a tiny little decrease when you replaced Mr.
17 Turner with Mr. Stephen, a \$13,000 spread, is that
18 right?
19 MR. SHAPIRO: Objection to form.
20 A The numbers show that, sir.
21 Q So Mr. Stephen was fortunate enough to
22 get this \$7,000 raise in June of '04 and six months
23 later got another raise to \$49,000 and change in
24 Exhibit 41, his annual merit increase?
25 (Document handed.)

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2 Q Is that right, sir? And you signed
3 off on that exhibit too?
4 A Merit increase, sir.
5 Q Right. So, Mr. DeGazon, when you let
6 Mr. Turner go and supposedly eliminated his position
7 there, really was no dollar savings because Mr.
8 Stephen was a manager four days later making only
9 a few dollars less, and other people in the
10 department were getting raises anyway, right, sir;
11 is that what the record shows?
12 A Mr. Stephen replaced Miss Sutowski.
13 Q That's your testimony?
14 A That's correct.
15 MR. SHAPIRO: What do you want, not his
16 testimony? Everything is his testimony.
17 MR. GOLDBERG: I would like the truth.
18 MR. SHAPIRO: The truth has not come
19 out of your mouth.
20 Q There really wasn't a dollar savings
21 with these changes you made?
22 MR. SHAPIRO: Objection to form.
23 A Yes, sir.
24 Q If there was a dollar savings, Mr.
25 DeGazon, at an entity the size of NYU, the savings

34 (Pages 130 to 133)

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2 and answered.
3 A That's mine.
4 Q And Exhibit number 67, are these notes
5 that you prepared on October 28th of 2003?
6 A That's mine.
7 Q And these are notes from a meeting you
8 had with Miss Sutowski and Miss Pineda in October of
9 2003?
10 A According to that.
11 MR. SHAPIRO: Objection to form.
12 Q According to that. Were your notes
13 true and accurate?
14 A Yes, sir, if my handwriting is there.
15 Q Okay. Let me show you now Exhibit
16 number 80. This is an e-mail that Mr. Turner sent
17 and you are listed as a cc. Do you believe you
18 received that since you are listed on it as a cc?
19 (Document handed.)
20 A I may have, sir.
21 MR. GOLDBERG: I need about a
22 ten minute break just to see what I've got
23 left. I'm certainly in the home stretch.
24 (At this time a brief recess was
25 taken.)

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2 MR. GOLDBERG: Let's mark one more
3 document as an exhibit and that would be
4 Exhibit number 96, Bates numbers N0338 to
5 N0339.
6 (At this time the above referred to
7 documents were marked as Plaintiff's Exhibit
8 96 for identification, as of this date.)
9 Q Having gone through many hours with me
10 in this deposition, have you now thought through as
11 to when you made the decision to let Miss Sutowski
12 go? Do you have a better time frame than what you
13 said earlier or no better time frame?
14 A No better time frame.
15 Q Do you have a better time frame as to
16 when you made the decision to let Mr. Turner go?
17 A No, sir.
18 Q Okay. Since Miss Sutowski's position
19 was not eliminated, can you tell me why you didn't
20 simply assign Mr. Turner to Miss Sutowski's position
21 on June 14th, 2004?
22 A Mr. Turner's evaluation showed that his
23 performance was unacceptable.
24 Q That evaluation was prepared two months
25 after he was let go, wasn't it, sir?

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2 MR. SHAPIRO: Objection to form.
3 A I don't recall.
4 Q Let me show it to you, sir, the
5 evaluation that you're talking about.
6 MR. SHAPIRO: How do you know that
7 that's the evaluation that he's talking
8 about? Why don't you ask him rather than
9 telling him?
10 MR. GOLDBERG: Let me do the dep,
11 Peter. If you want to ask him I will stay
12 as late as you want.
13 MR. SHAPIRO: I don't want you to tell
14 him things that he hasn't testified to.
15 Q Look at Exhibit number 9. This
16 document, Ms. Pineda signed it August 3rd of 2004. Is
17 this the evaluation that you're saying was the basis
18 for you not assigning Mr. Turner to Miss Sutowski's
19 position on June 14th of 2004?
20 MR. SHAPIRO: Objection to form.
21 A That, and in addition, information
22 from Miss Pineda his performance was unacceptable.
23 Q Would you agree with me you didn't
24 have this evaluation in front of you on June 14th of
25 2004, you didn't have this until August of '04?

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2 A That's correct, sir.
3 Q In addition, the evaluation that you
4 did have on Mr. Turner that was in writing was the
5 2003 evaluation that says "meets requirements". That
6 was the annual evaluation that existed as of the
7 date of Mr. Turner's separation. He had not received
8 an annual evaluation in '04, isn't that correct,
9 sir?
10 MR. SHAPIRO: Objection to form.
11 A The record doesn't show he didn't have
12 one, it doesn't show what his performance was.
13 Q Just so we're clear, the only annual
14 evaluation that existed on the date of Mr. Turner's
15 separation from NYU was the one from '03, correct?
16 MR. SHAPIRO: Objection to form.
17 A If the record shows that there's no
18 other one.
19 Q Since Mr. Turner got annual evaluations
20 and he was hired in September of '02, then it is
21 understandable that he got one in September of '03,
22 right, sir?
23 A That's correct.
24 Q And the next one, had he still been at
25 NYU, would have been September of '04?

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 2 A That's correct, sir.
 3 Q It's understandable that there wasn't
 4 an annual evaluation in '04 because September hadn't
 5 rolled around as of the date he was let go, right?
 6 A Correct, sir.
 7 Q The only evaluation that you would
 8 have had available to you of Mr. Turner was Exhibit
 9 number 4, right?
 10 A Annual evaluation, sir, yes, that is
 11 correct.
 12 Q And that is what the handbook provides
 13 for annual performance evaluations, Exhibit number 6,
 14 correct?
 15 MR. SHAPIRO: Objection to form.
 16 A As stated in the book, so be it, sir.
 17 Q Fine. So you're saying Miss Pineda
 18 said things to you that made you decide not to place
 19 Mr. Turner in Miss Sutowski's position?
 20 MR. SHAPIRO: Objection to form.
 21 A She was apprising me of the
 22 performance.
 23 Q What did she say to you and what did
 24 you say to her?
 25 A I don't remember exactly what she said

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 2 and when she said it. The general thesis was that
 3 they were not performing up to standard and she had
 4 specific issues with their performance.
 5 Q And again, Mr. DeGazon, you didn't
 6 prepare any document explaining your decision not to
 7 place Mr. Turner in Miss Sutowski's position?
 8 MR. SHAPIRO: Objection to form.
 9 A Correct, sir.
 10 Q And you agree with me that it was
 11 within your power as Director with authority to hire
 12 and fire to have simply placed Mr. Turner in Miss
 13 Sutowski's position if you wanted to; you had that
 14 authority, sir?
 15 MR. SHAPIRO: Objection to form.
 16 A I had that authority.
 17 Q And since Mr. Turner was not fired for
 18 cause but was, in your testimony and the documents,
 19 was told he was being laid off, nobody at NYU would
 20 have stopped you had you simply said, Mr. Turner, you
 21 have Miss Sutowski's position now, correct?
 22 MR. SHAPIRO: Objection to form.
 23 Q Because you had the power to do so?
 24 A That's correct, sir.
 25 Q And as I understand it, you are unable

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 2 in this deposition to say to me, on this date
 3 Miss Pineda said this to me and this is why I didn't
 4 place Mr. Turner in Miss Sutowski's position, is
 5 that right?
 6 MR. SHAPIRO: Objection to form.
 7 A That's correct, sir.
 8 Q And Miss Pineda's comments about Mr.
 9 Turner were her subjective opinion about Mr. Turner,
 10 correct?
 11 MR. SHAPIRO: Objection to form.
 12 A She was his superior.
 13 Q Correct. She was his superior who gave
 14 him a "meets requirements" in '03, correct?
 15 MR. SHAPIRO: Objection to form.
 16 A In '03, sir.
 17 Q That's right. And the handbook, when
 18 it talks about evaluations of performance, to my
 19 reading of it, on page number 11 says, that NYU and
 20 I will quote "appraised each employee on the job
 21 performance annually," right?
 22 MR. SHAPIRO: He's got to look at it
 23 if you're going to ask him questions about
 24 it.
 25 Q Isn't that what it says in the staff

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 2 handbook on page 8?
 3 (Document handed.)
 4 A It says so there, sir.
 5 Q And when you decided not to place
 6 Mr. Turner in Miss Sutowski's position, am I correct
 7 that based upon what I've shown you, you weren't
 8 staring at some document that you read that said,
 9 Mr. Turner can't get this job, because the evaluation
 10 was from '03 and the Personnel Profile Form had not
 11 yet been done, so you had no document in front of
 12 you when you made the decision; is that fair to say?
 13 A Not fair to say, sir.
 14 Q What did you have in front of you?
 15 A He was continuously being evaluated by
 16 his superior, Miss Pineda.
 17 Q What documents did you have in front
 18 of you?
 19 A I don't have them now. She probably
 20 may have had documents and his files may have had
 21 documents to show his performance maybe in the form
 22 of memos, I don't know.
 23 Q But you don't have any specific
 24 recollection of any specific document that you based
 25 your decision on, is that right?

38 (Pages 146 to 149)